

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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)	No. 03 MDL 1570 (GBD/SN)
In re Terrorist Attacks on September 11, 2001)	
)	ECF Case
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This document relates to:

Federal Insurance Co., et al. v. Al Qaida, et al., 03-cv-06978
Thomas E. Burnett, Sr., et al. v. Al Baraka Inv. & Dev. Corp., et al., 03-cv-09849
Estate of John P. O'Neill, Sr., et al. v. Al Baraka Inv. & Dev. Corp., et al., 04-cv-01923
Continental Casualty Co., et al. v. Al Qaeda, et al., 04-cv-05970
Cantor Fitzgerald & Co., et al. v. Akida Bank Private Ltd., et al., 04-cv-07065
Euro Brokers Inc., et al. v. Al Baraka Inv. & Dev. Corp., et al., 04-cv-07279

**NOTICE OF DEFENDANT DUBAI ISLAMIC BANK'S
MOTION TO EXCLUDE THE "SUPPLEMENTARY EXPERT REPORT"
OF JONATHAN WINER**

Please take notice that Defendant Dubai Islamic Bank ("DIB") moves this Court to exclude the "supplementary expert report" of Plaintiffs' expert Jonathan Winer as procedurally improper under Federal Rule of Civil Procedure 37 (or moves, in the alternative, for the full measure of customary procedural relief outlined below). The report is untimely; it is not a proper supplement of an earlier report; and Plaintiffs cannot show any substantial justification for its tardiness, especially given the facial impropriety of its content. If, however, this Court declines to exclude the report, DIB respectfully requests customary procedural relief, including an opportunity to depose Winer about his new opinions, to file new expert reports of its own, and to submit a revised

bellwether motion (or other appropriate form of motion) under *Daubert* and the Rules of Evidence to challenge the admissibility of Winer's "supplementary expert report."

DIB bases this motion on this Notice of Motion, the accompanying Memorandum of Law, Declaration of Steven T. Cottreau, exhibits, oral argument if any is granted, and all papers and proceedings heretofore had herein, as well as all materials in the discovery record. This motion is made following the conference of counsel, which took place on July 7, 2022. Plaintiffs declined an opportunity to withdraw Winer's "supplementary expert report."

Pursuant to this Court's order (ECF 8340), Plaintiffs shall file any opposition to this motion by August 30, 2022, and DIB shall file any reply by September 6, 2022.

Dated: August 15, 2022

Respectfully submitted,

/s/ Steven T. Cottreau

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